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12 *Attorney for Petitioner Melanie Ochs.

13 UNITED STATES DISTRICT COURT
14 DISTRICT OF NEVADA

15 Melanie A. Ochs,
16 Petitioner,
17 v.
18 Warden Jo Gentry, *et al.*,
19 Respondents.

20 Case No. 2:16-cv-00982-JCM-DJA

21 **Unopposed Motion for Extension**
22 **of Time to File Reply**
23 **(First Request)**
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1 **POINTS AND AUTHORITIES**

2 Petitioner Melanie A. Ochs respectfully asks this Court to enter an Order
3 extending her deadline for filing a Reply in support of her § 2254 petition by 120 days
4 until April 3, 2020.

5 After an eight-day trial, a jury convicted Ochs of first-degree murder of her
6 seven-month old foster child. The court sentenced her to 20 to 50 years in prison and
7 she is currently incarcerated at Florence McClure Women's Correctional Center.

8 Ochs filed a counseled amended petition on September 12, 2017.¹ The warden,
9 by Attorney Victor-Hugo Schulze, II filed a motion to dismiss certain claims on
10 February 2, 2018.² In support, he filed 11 exhibits.³ Ochs opposed it.⁴

11 The warden's current attorney took over the case on July 6, 2018.⁵ And on
12 September 19, 2018, this Court denied the motion to dismiss in full and ordered the
13 warden to file an answer.⁶ The warden filed four motions to extend the time for
14 filing his answer before it filed 150 exhibits on May 24, 2019.⁷ On June 3, 2019, the
15 warden filed a motion for leave to file a second motion to dismiss.⁸ Ochs opposed
16 that motion.⁹ This Court issued an Order preventing the warden from filing a
17 second motion to dismiss, but which did permit him to raise a timeliness defense in
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19 _____
20 ¹ ECF No. 18.

21 ² ECF No. 20.

22 ³ ECF No. 21.

23 ⁴ ECF No. 24.

24 ⁵ ECF No. 25.

25 ⁶ ECF No. 26.

26 ⁷ ECF No. 27 (60 days), ECF No. 29 (90 days); ECF No. 31 (45 days); ECF No.
27 33 (14 days); ECF Nos. 34 (exhibits-36).

⁸ ECF No. 38.

⁹ ECF No. 42.

1 the answer.¹⁰ The warden did so, arguing in the answer for the first time that all of
2 Ochs's claims are barred by the statute of limitations.¹¹

3 This extension is necessary to give Ochs time to complete an investigation in
4 support of equitable tolling. Ochs did not previously undertake this investigation
5 because it wasn't an issue until recently. Such investigation requires Ochs to
6 request and obtain records from the Nevada Department of Corrections and
7 interview witnesses. Counsel has been assigned an investigator for this matter.

8 The requested extension will give Ochs time to complete her tolling
9 investigation and draft and file a reply on Ochs's behalf that addresses both the
10 limitations defense and the claims on the merits. This extension is not made for
11 purposes of delay, but in Ochs's interest and the interests of justice.

12 By e-mail on December 5, 2019, Senior Deputy Attorney General Allison
13 reported that she does not oppose this request.

26 ¹⁰ ECF No. 47.

27 ¹¹ ECF No. 51.

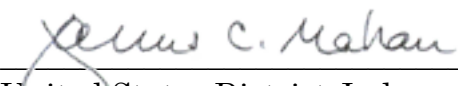
1 Dated December 5, 2019.

2 Respectfully submitted,

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4 Rene L. Valladares
5 Federal Public Defender

6 /s/Amelia L. Bizzaro
7 Amelia L. Bizzaro
8 Assistant Federal Public Defender

9 IT IS SO ORDERED:

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12 Dennis C. Mahan
13 United States District Judge

14 Dated: December 10, 2019
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CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2019, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, District of Nevada by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system and include: Allison Herr.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following non-CM/ECF participants:

Melanie A. Ochs
No. 1047740
Florence McClure Women's Correctional Center
4370 Smiley Road
North Las Vegas, NV 89115

/s/ Jessica Pillsbury
An Employee of the
Federal Public Defender